

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Pamela Ngwesse,
Plaintiff,

Case No.: _____

vs.

DEFENDANTS' NOTICE OF REMOVAL

Wal-Mart Transportation, Inc. and
John Robert Jackson,
Defendants.

(Demand for Jury Trial)

To: Clerk of the United States District Court for the District of Minnesota.

PLEASE TAKE NOTICE THAT pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendants Wal-Mart Transportation, Inc. and John Robert Jackson jointly remove this action from the Washington County District Court, Tenth Judicial District, State of Minnesota, to the United States District Court for the District of Minnesota. In support of this Notice of Removal, Defendants respectfully show and aver as follows:

Procedural History and Plaintiff's Allegations

1. Defendants Wal-Mart Transportation, Inc. and John Robert Jackson ("Defendants") are defendants in an action commenced in Washington County District Court entitled *Pamela Ngwesse v. Wal-Mart Transportation, Inc. and John Robert Jackson*. A true and correct copy of the Summons and Complaint is attached hereto. In the Complaint, Plaintiff Pamela Ngwesse ("Plaintiff") alleges that she suffered personal injuries as a result of a motor vehicle accident that occurred in the State of Minnesota, has in the past and will in the future incur expenses for medical care and treatment, has in the past and will in the future incur a loss of earnings, has in the past and will in the

future suffer physical pain and mental harm, and has ongoing past and future economic losses. The Complaint further alleges that Plaintiff has suffered damages in excess of \$50,000. Based on Plaintiff's claims, and a pre-suit demand Plaintiff made to Defendants in excess of \$315,000, it appears to a legal certainty that the amount in controversy exceeds the jurisdictional minimum of \$75,000. *See Kaufman v. Costco Wholesale Corp.*, 571 F.Supp.2d 1061, 1063-64 (D. Minn. 2008) ("[T]he removing party bears the burden of proving, by a preponderance of the evidence, that the amount in controversy in fact exceeds \$75,000. The burden can be met by submitting proof that the plaintiff's verdict reasonable may well exceed the jurisdictional minimum, or if, on the face of the complaint, it is apparent that the claims are likely above that amount. The jurisdictional inquiry focuses on the claims made at the time of removal." *Id.* (Internal citations omitted)). A true and correct copy of Plaintiff's demand to Defendants is attached as Exhibit A to the Affidavit of John R. Crawford.

2. Plaintiff is and was at the time of the accident a resident of the City of Oakdale, County of Washington, State of Minnesota. Defendant Wal-Mart Transportation, LLC is a Delaware limited liability company with its principal place of business in the State of Arkansas. Defendant John Robert Jackson is a resident of the City of Eau Claire, County of Eau Claire, State of Wisconsin.

3. Complete diversity exists between the parties to this action and Plaintiff has claimed in excess of \$75,000, exclusive of interest and costs. 28 U.S.C. §1332(a).

Grounds for Removal

4. Based upon the foregoing, this Court has original jurisdiction for this matter pursuant to 28 U.S.C. § 1332, and the entire matter is one which may be removed to this Court pursuant to 28 U.S.C. § 1441.

The Procedural Requirements for Removal Have Been Satisfied

5. Defendant Wal-Mart Transportation, Inc. received service of a copy of Plaintiff's initial pleading setting forth the claim for relief upon which this action is based on or about January 23, 2019, and Defendant Wal-Mart Transportation, Inc. has filed this Notice of Removal within 30 days after service pursuant to 28 U.S.C. § 1446(b).

6. Defendant John Robert Jackson has yet to be served, but his defense has been assigned to Lommen Abdo and John Crawford, and Mr. Crawford has served a joint answer on behalf of Mr. Jackson and Wal-Mart Transportation, Inc.

7. Defendants each consent to removal of this action to the United States District Court for the District of Minnesota pursuant to 28 U.S.C. § 1446(2).

8. Defendants are simultaneously serving a copy of this Notice of Removal on counsel for the adverse party and are filing a copy with the Washington County District Court, Tenth Judicial District, State of Minnesota, in compliance with 28 U.S.C. § 1446(d).

9. Pursuant to 28 U.S.C. § 1446, to the best of Defendants' knowledge, aside from a copy of all process and pleadings attached hereto, no further proceedings have taken place in this action.

Non-Waiver of Defenses

10. By removing this action from the Washington County District Court, Tenth Judicial District, State of Minnesota, Defendants do not waive any defenses available to them.

11. By removing this action from the Washington County District Court, Tenth Judicial District, State of Minnesota, Defendants do not admit any of the allegations in Plaintiff's Complaint.

WHEREFORE, Defendants remove the above-captioned action from the Washington County District Court, Tenth Judicial District, State of Minnesota to the United States District Court for the District of Minnesota and submit that no further proceedings be had in state court.

Dated: February 21, 2019

LOMMEN ABDO, P.A.

/s/ John R. Crawford

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